

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 74022

Edward S. Askew

401 N. Beechwood Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on July 28, 2010 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1; Baltimore County Code (BCC) section 35-5-302, failure to remove all chipping and peeling paint, failure to repair all defective wood and metal, on residential property known as 401 N. Beechwood Road, 21228.

On June 3, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Chip Raynor issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$2,000.00 (two thousand dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

The following persons appeared for the Hearing and testified: John Hyler and John Baxter, neighbors and, Chip Raynor, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on March 15, 2010 for repair of exterior structure, repair metal/wood surfaces, comply with attached letter; the letter from Inspector Chip Raynor explained that Baltimore County Code Enforcement has received complaints since 2008 about peeling paint and that repairs are required by April 15, 2010. A Correction Notice was issued on April 27, 2010 to cut tall grass and weeds, and repair metal/wood surfaces, remove flaking paint, repair all wood surfaces. This Citation was issued on June 3, 2010.

B. Photographs in the file show an attractive white house with wood shingle siding. Photographs show that the paint on some of the shingles is peeling or missing. Photographs show the wood pillars on the front porch, the fascia boards on the porch and roofline, and other wood surfaces have peeling and missing paint. Respondent is required by law to maintain the exterior of the house at least in conformance with county code standards, including keeping all "[e]xposed surfaces of metal or wood in good repair, in a structurally sound condition, and protected against decay, rust, peeling, or flaking." BCC Section 35-5-302. The areas of peeling and missing paint must be scraped and painted, to protect the house from weather damage.

C. John Hyler and John Baxter are neighbors of Respondent. They testified that the house is in need of repairs and that they have tried to communicate with Respondent but have been unable to talk with him. They testified that Respondent Askew resides in the property and that they do not believe he is ill or infirm.

D. Review of the file shows that this property has been the subject of repeated code enforcement proceedings for the same violations. Respondent paid a \$3,000.00 (three thousand dollars) civil penalty in 2007. Respondent also paid a \$1,000.00 (one thousand dollars) civil penalty in 2006, which was returned to Respondent by the Hearing Officer with a request that he spend the money on making the required repairs. Respondent Askew has sent letters to the County apologizing for the delay and pledging compliance, but the required painting has still not been done.

E. Review of the file shows that multiple code enforcement proceedings have not succeeded in obtaining correction of the violations. Respondent has not appeared for Hearings and has not offered any excuse or reason for the violations, and has not asked for assistance in funding or arranging for painting services. This Citation will be enforced.

F. Because compliance is the goal of code enforcement, the civil penalty will be rescinded if the violations are corrected within the time provided below. However, if the violations are not corrected, Respondent is advised that he is subject to additional Citation with civil penalties, at the potential rate of up to \$500 per day per code violation. See BCC Section 1-2-217.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$2,000.00 (two thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the violations are corrected, with all exterior surfaces properly painted, by September 7, 2010.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 3rd day of August 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf